

EXHIBIT A



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Notice of Service of Process

Transmittal Number: 15189421
Date Processed: 05/24/2016

Primary Contact: Kate Jackson
Cummins Inc.
One American Square
Suite 1800
Indianapolis, IN 46282

Entity:	Cummins Inc. Entity ID Number 2372506
Entity Served:	Cummins, Inc.
Title of Action:	Ross Micklealson vs. Cummins, Inc.
Document(s) Type:	Summons/Complaint
Nature of Action:	Discrimination
Court/Agency:	Yellowstone County District Court, Montana
Case/Reference No:	DV 16-0586
Jurisdiction Served:	Montana
Date Served on CSC:	05/23/2016
Answer or Appearance Due:	21 Days
Originally Served On:	CSC
How Served:	Personal Service
Sender Information:	Veronica A. Procter 406-294-8915

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Attorney for Plaintiff

**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY**

ROSS MICKEALSON,)	CAUSE NO. DV 16-0586
)	
Plaintiff,)	Judge ROD SOUZA
)	
vs.)	SUMMONS
)	
CUMMINS INC.,)	
)	
Defendant. <i>CSL</i>)	

**THE STATE OF MONTANA SENDS GREETINGS TO THE ABOVE-
NAMED DEFENDANT, CUMMINS, INC.:**

You are hereby summoned to answer the Complaint and Demand for Jury Trial in this action which is filed in the office of the Clerk of this Court, a copy of which is herewith served upon you, and to file your answer and serve a copy thereof upon the Plaintiff's attorney within twenty-one (21) days after the service of Summons, exclusive of the day of service; and in case of your failure to appear or answer, judgment will be taken against you by default, for the relief demanded in the Complaint and Demand for Jury Trial.

1 WITNESS my hand and seal of the Court this 20th day of April, 2016.

2 **KRISTIE LEE BOELTER**
3 CLERK OF DISTRICT COURT

4 By: *[Signature]*
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8 *Attorney for Plaintiff*

CLERK OF THE
DISTRICT COURT
KRISTINE PROCTER
2016 APR 20 PM 3 50
FILED
BY _____
DEPUTY

9
10 MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
11 YELLOWSTONE COUNTY

12 ROSS MICKEALSON,

13 Plaintiff,

14 vs.

15 CUMMINS INC.,

16 Defendant.

)
) CAUSE NO. DV 16-0586
)

) Judge ROD SOUZA
)

) COMPLAINT AND DEMAND FOR
) JURY TRIAL
)

17
18 COMES NOW the Plaintiff, Ross Mickealson, by and through his counsel of
19 record, Veronica A. Procter of Procter Law, PLLC, and for his Complaint against
20 Defendant Cummins, Inc., complains and alleges as follows:
21

- 22 1. Plaintiff Ross Mickealson is a resident of Cascade County, Montana.
23
24 2. Defendant Cummins, Inc., is foreign corporation based in Columbus, Indiana,
25 but is licensed to do business with the Secretary of State for the State of
26 Montana and has a location in Billings, Montana.
27
28

- 1 3. Plaintiff worked for and was terminated by Defendant Cummins, Inc. in
2 Billings, Montana.
- 3
- 4 4. Jurisdiction and venue is proper in this Court.
- 5
- 6 5. Defendant designs, manufactures, distributes and services diesel and natural
7 gas engines and related technologies, including fuel systems, controls, air
8 handling, filtration, emission solutions and electrical power generation
9 systems.
- 10
- 11 6. Plaintiff was a successful Sales Representative for Cummins from 2012 until
12 2015.
- 13
- 14 7. Plaintiff's duties at Cummins, Inc. included, but were not limited to, Power
15 Generation systems account management, project management, bid/spec
16 work, and customer relations.
- 17
- 18 8. Plaintiff's sales territory encompassed Central and Eastern Montana and
19 Northern Wyoming.
- 20
- 21 9. On November 11, 2014, while at the Cummins office, Plaintiff sustained an
22 injury to his shoulder.
- 23
- 24 10. Plaintiff pursued treatment for his injury through worker's compensation.
- 25
- 26 11. Defendant became increasingly intolerant of Plaintiff's medical care, which
27 continued into 2015, as his injury worsened.
- 28

1 12. In addition, in or our around March 2015, Defendant officially put Plaintiff in
2 a new office that Plaintiff's co-workers labeled the "Al-Qaeda" room because
3 of its small size and location.
4

5 13. Plaintiff is claustrophobic, which posed an immediate problem, and the office
6 also filled with exhaust fumes from the shop.
7

8 14. Despite Plaintiff's repeated requests to Human Resources for reasonable
9 accommodation with regard to his medical care and his office space, nothing
10 was done.
11

12 15. On March 17, 2015, Plaintiff utilized the internal grievance procedure at
13 Cummins, Inc. to report the retaliation at the hands of management.
14

15 16. On April 22, 2015, Plaintiff was terminated.
16

17 17. On May 12, 2015, Plaintiff had surgery on his shoulder.
18

19 18. Plaintiff reached maximum medical improvement on April 4, 2016.
20

21 19. To date, Plaintiff has not obtained new employment, despite mitigation
22 efforts.
23

24 20. He suffered and continues to suffer damages for which he seeks full legal
25 redress.
26

27 COUNT I: WRONGFUL DISCHARGE
28

21. Plaintiff incorporates by reference the allegations contained in Paragraph
Nos. 1 through 20 as stated fully herein.

1 22. Defendant's discharge of Plaintiff was wrongful because it was not for good
2 cause, and Plaintiff had completed his probationary period. Defendant's
3 conduct is in violation of Mont. Code Ann. § 39-2-904(2) because it lacked
4 reasonable job-related grounds for termination.
5

6 23. Defendant's alleged reason(s) for terminating Plaintiff was false, whimsical,
7 arbitrary, or capricious and unrelated to a legitimate business reason.
8

9 24. As a result of Defendant's wrongful conduct, Plaintiff suffered and continues
10 to suffer damages for which he seeks full legal redress.
11

12 COUNT II: VIOLATION OF THE MONTANA HUMAN RIGHTS ACT

13 MONT. CODE ANN. § 49-2-101 ET SEQ
14

15 25. Plaintiff incorporates by reference the allegations contained in Paragraph
16 Nos. 1 through 24 as stated fully herein.
17

18 26. The stated reasons for Defendant's conduct were not the true reasons of its
19 decision to terminate Plaintiff, but rather pretext to hide its discriminatory
20 animus.
21

22 27. The conduct of Defendant toward Plaintiff as described in the preceding
23 paragraphs was unlawful because it discriminated against him on the basis of
24 his disability(s).
25

26 28. As a direct and proximate result of Defendant's unlawful employment
27 practices, Plaintiff has suffered emotionally.
28

1 29. Plaintiff has also suffered and continues to suffer damages, including back
2 pay, front pay, retirement benefits, and other benefits and privileges of
3 employment with Defendant.
4

5 COUNT III: VIOLATION OF AMERICANS WITH DISABILITIES ACT

6 42 U.S.C. 126 ET SEQ
7

8 30. Plaintiff incorporates by reference the allegations contained in Paragraph
9 Nos. 1 through 29 as stated fully herein.
10

11 31. The stated reasons for Defendant's conduct were not the true reasons of its
12 decision to terminate Plaintiff, but rather pretext to hide its discriminatory
13 animus.
14

15 32. The conduct of Defendant toward Plaintiff as described in the preceding
16 paragraphs was unlawful and in violation of federal law due to Defendant's
17 failure to provide reasonable accommodation with respect to Plaintiff's
18 disabilities.
19

20 33. As a direct and proximate result of Defendant's unlawful employment
21 practices, Plaintiff has suffered emotionally.
22

23 34. Plaintiff has also suffered and continues to suffer damages, including back
24 pay, front pay, retirement benefits, and other benefits and privileges of
25 employment with Defendant.
26

27 ///

1 WHEREFORE, Plaintiff prays judgment against Defendant as follows:

- 2 1. Plaintiff be awarded damages, in amounts to be determined at trial;
3
4 2. For the costs of suit herein;
5
6 3. For attorney fees;
7
8 4. For any such other and further relief as may be just and proper.

9 RESPECTFULLY SUBMITTED this 20th day of April, 2016.

10 PROCTER LAW, PLLC

11 By: 

12 VERONICA A. PROCTER
13 *Attorney for Plaintiff*

14
15 DEMAND FOR JURY TRIAL

16 COMES NOW Plaintiff and demand a jury trial on all issues of facts raised
17 herein.

18 RESPECTFULLY SUBMITTED this 20th day of April, 2016.

19 PROCTER LAW, PLLC

20 By: 

21 VERONICA A. PROCTER
22 *Attorney for Plaintiff*
23
24
25
26
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